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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 JAMES ALLEN KINNEY,

9 Petitioner,

Case No. C17-1040-RAJ

10 v.

11 JAMES KEY,

12 Respondent.

ORDER REFERRING CASE TO NINTH
CIRCUIT COURT OF APPEALS

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14 The Court, having reviewed the Report and Recommendation of the Honorable James P.
15 Donohue, Chief United States Magistrate Judge, any objections thereto, and the remaining
16 record, hereby ORDERS:

17 (1) The Report and Recommendation is approved and adopted.

18 (2) Petitioner's federal habeas petition is REFERRED to the Ninth Circuit Court of
19 Appeals as a second or successive petition. Petitioner is advised that this referral does not of
20 itself constitute compliance with 28 U.S.C. § 2244(b)(3) and Ninth Circuit Rule 22-3. Petitioner
21 must still file a motion for leave to proceed in the Court of Appeals and make the showing
22 required by § 2244(b)(2).
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(3) Petitioner's pending motions (Dkts. 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23 and 26) are STRICKEN as moot.

(4) The Clerk is directed to administratively close this case and to transfer all original documents to the Ninth Circuit Court of Appeals. The Clerk shall, however, retain a copy of the petition and of this Order in the file. The Clerk is further directed to send a copy of this Order to petitioner and to the Honorable James P. Donohue.

DATED this 8th day of November, 2017.

Richard A. Jones

The Honorable Richard A. Jones
United States District Judge